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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/665,704	09/19/2003	Joseph J. Bella	14000	6017

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EXAMINER

LUGO, CARLOS

ART UNIT	PAPER NUMBER
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3676

DATE MAILED: 08/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/665,704

Applicant(s)

BELLA ET AL.

Examiner

Carlos Lugo

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 July 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,4,8-10,12 and 14-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,4,8-10,12 and 14-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This Office Action is in response to applicant's RCE filed on July 14, 2006.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. **Claims 1,4,8,9,12, and 18-20 are rejected** under 35 U.S.C. 103(a) as being unpatentable over DE 29702278 to Chang et al (Chang) in view of EP 982454 to Pryce and further in view of US Pat No 3,854,784 to Hunt et al (Hunt).

Regarding claim 1, Chang discloses a container (3) comprising a pocket (desk openings) and a drawer (31) slidably relative to the pocket in an axial direction between closed position within the pocket and an open position at least partly out of the pocket.

A latch mechanism (Figure 2) has a first latch component (1) on the pocket and a second latch component (2) on the drawer.

One of the latch components has a track component disposed on the pocket and that includes a portal, a nest (at 1131), an entrance track (112) leading to the nest, an exit track (114) from the nest, and a redirector (at 113) associate with the nest and the tracks.

The other of the latch components has a follower (22) disposed in the drawer and moveable along the tracks and moveable into and out of the nest upon transition

from the entrance track to the exit track. The track component is substantially fixed relative to the pocket.

However, Chang fails to disclose that the follower is translatable traverse to the direction with respect to the drawer. Chang discloses that the follower moves in an arc.

Pryce teaches that it is well known in the art to have a follower (2) that is translated in a direction transverse to the axial direction to help and guide the follower when it is connected to a track component (10). The follower is freely movable along a slot (3).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have a slot wherein a follower is slidably disposed, as taught by Pryce, into a device as described by Chang, in order to help and guide the follower when it is connected to a track component.

Further, Chang fails to disclose that the portal is configured to receive the follower regardless of the position of the follower. Chang illustrates that the follower needs to be positioned in a central position so that the portal can receive the follower (Figures 2 and 4).

Hunt teaches that it is well known in the art to provide guide surfaces (11 and 19) that guide a follower (37) to be received into a portal. These surfaces will aid the receiving of the follower into the portal regardless the position of the follower with respect to the portal.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the portal described by Chang with guide surfaces, as taught by Hunt, in order to receive the follower into the portal regardless the position of the follower with respect to the portal.

As to claim 4, Chang discloses that the drawer has an inner end wherein the follower is disposed.

As to claim 8, Chang discloses that the pocket has a spring (124) engaged by the drawer (by means of 127) for urging the drawer outwardly from the pocket.

As to claim 9, Chang illustrates that the track component includes a guide (Figure 4) leading into the entrance track.

As to claim 12, Chang discloses a container (3) comprising a pocket (desk openings) and a drawer (31) slidably relative to the pocket in an axial direction between closed position within the pocket and an open position at least partly out of the pocket.

A latch mechanism (Figure 2) has a first latch component (1) on the pocket and a second latch component (2) on the drawer.

One of the latch components has a track component disposed on the pocket and that includes a portal configured to receive a follower (22), a nest (at 1131), an entrance track (112) leading to the nest, an exit track (114) from the nest, and a redirector (at 113) associate with the nest and the tracks.

The other of the latch components has the follower (22) disposed in the drawer and moveable along the tracks and moveable into and out of the nest upon

transition from the entrance track to the exit track. The track component is substantially fixed relative to the pocket.

However, Chang fails to disclose that the follower is translatable traverse to the direction with respect to the drawer. Chang discloses that the follower moves in an arc.

Pryce teaches that it is well known in the art to have a follower (2) that is translated in a direction transverse to the axial direction to help and guide the follower when it is connected to a track component (10). The follower is freely movable along a slot (3).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have a slot wherein a follower is slidably disposed, as taught by Pryce, into a device as described by Chang, in order to help and guide the follower when it is connected to a track component.

As to the limitation, "a cosmetic container", Chang device is capable of contain any cosmetic item. Further, applicant is reminded that where there is physical identity between the subject matter of the claims and the prior art, the label given to the claimed subject matter does not distinguish the invention over the prior art. Therefore, the device described by Chang can be considered as a "cosmetic container".

As to claim 18, Chang illustrates that the redirector (at 113) includes a surface for guiding the follower into the notch from the entrance track and a second surface for guiding the follower into the exit track from the notch (Figures 4-7).

As to claims 19 and 20, Chang illustrates a method for closing, latching, unlatching, and opening a container (Figures 4-7). Further, Chang device is capable of being provided with a cosmetic in the drawer.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. **Claims 10 and 14-17 are rejected** under 35 U.S.C. 103(a) as being unpatentable over DE 29702278 to Chang et al (Chang) in view of EP 982454 to Pryce and US Pat No 3,854,784 to Hunt et al (Hunt) as applied to claim 1 above, and further in view of JP 11270212 to Sasaki.

Chang, as modified by Pryce and Hunt, fails to disclose that the pocket has a top with an inner surface wherein the track component is disposed. Chang illustrates that the pocket has a top with an inner surface, however the track component is disposed on an end wall of the pocket, not at the inner surface of the top part.

Sasaki teaches that it is well known in the art to have a track component disposed on an inner surface of the top part of the pocket (Figure 2).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the track component disposed on the inner surface of the top part of the drawer, instead of being disposed at an end wall of the pocket, as

taught by Sasaki, into a device as described by Chang, because the location where the track component is located does not change the mechanism of the lock.

As to claims 11 and 14, Pryce teaches that it is well known in the art to have a slot (3) wherein a follower (2) is slidably disposed so as to help and guide the follower when it is connected to a track component (10).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have a slot wherein a follower is slidably disposed, as taught by Pryce, into a device as described by Chang, in order to help and guide the follower when it is connected to a track component.

As to claim 15, Chang discloses that the pocket has a spring (124) engaged by the drawer (by means of 127) for urging the drawer outwardly from the pocket.

As to claim 16, Chang illustrates that the track component includes a guide (Figure 4) leading into the entrance track.

As to claim 17, Chang, as modified by Pryce, fails to disclose that the pocket has a top with an inner surface wherein the track component is disposed. Chang illustrates that the pocket has a top with an inner surface, however the track component is disposed on an end wall of the pocket, not at the inner surface of the top part.

Sasaki teaches that it is well known in the art to have a track component disposed on an inner surface of the top part of the pocket (Figure 2).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the track component disposed on the inner surface of

the top part of the drawer, instead of being disposed at an end wall of the pocket, as taught by Sasaki, into a device as described by Chang, as modified by Pryce, because the location where the track component is located does not change the mechanism of the lock.

Response to Arguments

6. Applicant's arguments filed on July 14, 2006 have been fully considered but they are not persuasive.

The applicant argues that the new amendment to the claims that includes the limitation "the follower freely movable along a slot on the drawer and that the portal is configured to receive the follower regardless of the position of the follower within the slot", overcomes the previous rejection of the claims in view of Chang, as modified by Pryce and Sasaki. The arguments have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Chang, as modified by Pryce and Hunt, and further in view of Sasaki.

Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carlos Lugo whose telephone number 571-272-7058. The examiner can normally be reached on 9-6pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Glessner can be reached on 571-272-6843. The fax phone number

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for the organization where this application or proceeding is assigned is 571-273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-5771.



Carlos Lugo
Patent Examiner AU 3676
August 1, 2006.



BRIAN E. GLESSNER
SUPERVISORY PATENT EXAMINER